

Charges for shipping are gross receipts subject to ROT unless they are agreed to separate and apart from the selling price of the items being sold. See, 86 Ill. Adm. Code 130.415. (This is a GIL).

December 1, 1999

Dear Mr. Xxxxx:

This letter is in response to your letter dated August 24, 1999. The nature of your letter and the information you have provided require that we respond with a General Information Letter, which is designed to provide general information, is not a statement of Department policy and is not binding on the Department. See 2 Ill. Adm. Code 1200.120(b) and (c), enclosed.

In your letter, you have stated and made inquiry as follows:

I would like to have a legal opinion rendered regarding our collection of sales tax on shipping charges. I talked with Margaret at the Department of Revenue (217-782-2972), and she directed me to Title 86 Part 130 Section 130.415 Transportation and Delivery Charges. It is her opinion that we are correct in charging tax on the shipping charges.

I have enclosed a copy of our business description and order form for you to review for rendering your legal opinion regarding the correct method of taxation in this situation.

If you have any further questions, feel free to give me a call at #### or direct any correspondence to:

...

Thank you for your time and assistance.

We did not receive the business description or order form you reference. By reviewing the following information you can determine if you should charge Illinois sales tax on your shipping charges.

As a technical proposition, handling charges represent a retailer's cost of doing business, and are consequently always part of gross charges subject to tax. See, 86 Ill. Adm. Code 130.410, enclosed. However, such charges are often stated in combination with shipping charges. In this case, charges designated as "shipping and handling," as well as delivery or transportation charges in general, are not taxable if it can be shown that they are both separately contracted for and that such charges are actually reflective of the costs of shipping. To the extent that shipping and handling charges exceed the costs of shipping, the charges are subject to tax. As indicated above, charges termed "delivery" or "transportation" charges follow the same principle.

Whether transportation or shipping charges may be deducted by retailers in calculating Retailers' Occupation Tax liability depends not upon the separate billing of such transportation or handling charges but upon whether the charges are included in the selling prices of the property or are contracted for separately by purchasers and retailers. The best evidence that delivery charges were agreed to separately and apart from selling prices, are separate and distinct contracts for freight or shipping. Alternatively, documentation in the records of sellers that purchasers had options of taking delivery of the property at sellers' locations, for the agreed purchase prices, or having delivery made by sellers for the agreed purchase prices plus ascertainable delivery charges, may suffice.

Mail order delivery charges are deemed to be agreed upon separately from the selling price of the tangible personal property being sold so long as the mail order form requires a separate charge for delivery and so long as the charges designated as transportation or delivery or shipping and handling are actually reflective of the costs of such shipping, transportation or delivery. To the extent that such charges exceed the costs of shipping, transportation or delivery, the excess charges are subject to tax. See section 130.415(d).

I hope this information is helpful. The Department of Revenue maintains a Web site, which can be accessed at www.revenue.state.il.us. If you have further questions related to the Illinois sales tax laws, please contact the Department's Taxpayer Information Division at (217) 782-3336.

If you are not under audit and you wish to obtain a binding Private Letter Ruling regarding your factual situation, please submit all of the information set out in items 1 through 8 of the enclosed copy of Section 1200.110(b).

Very truly yours,

Karl W. Betz
Associate Counsel

KWB:msk
Enc.